

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Davis Livingston,)
)
Plaintiff,)
)
vs.)
)
City of North Myrtle Beach,)
)
Defendant.)
_____)

NOTICE OF REMOVAL

DEFENDANT'S NOTICE OF REMOVAL

PLEASE TAKE NOTICE, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, that this action is being removed from the Circuit Court for Horry County, South Carolina (15th Judicial Circuit) to this court. Removal is proper on the following grounds:

1. On July 26, 2021, Plaintiff initiated a lawsuit against Defendant. On July 29, 2021, Plaintiff served upon Defendant City of North Myrtle Beach the Summons and Complaint. This action was brought against the Defendant in the Court of Common Pleas for the Fifteenth Judicial Circuit, Horry County, State of South Carolina, with the following caption and case number: Davis Livingston vs. City of North Myrtle Beach; C.A. No. 2021-CP-26-04911.
2. The Complaint asserts federal questions over which this court has original jurisdiction under 28 U.S.C. § 1331 and the action is one which may be removed to this court by the Defendant pursuant to 28 U.S.C. §§ 1441 and 1446. This action is removable because the Complaint alleges claims under the federal law commonly referred to as the Americans with Disabilities Act, as amended (42 U.S.C. 12101, *et seq.*).

3. In accordance with the requirements of 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days after the service of the Complaint on Defendant.

Defendant will file and serve an Answer or other responsive pleadings as provided by law.

4. Written notice will be promptly served on the Plaintiff in this action upon the filing of the Notice of Removal with this court.

5. A true and correct copy of the Notice of Removal will be filed with the Clerk of Court for the Court of Common Pleas for Horry County, South Carolina, as provided under 28 U.S.C. § 1446(d).

s/Michael D. Malone

Michael D. Malone (FID # 6709)

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**ATTORNEYS FOR DEFENDANT
CITY OF NORTH MYRTLE BEACH**

Columbia, SC
August 27, 2021

CERTIFICATE OF SERVICE

This is to certify that I have this date caused to be served a copy of the Defendant's
NOTICE OF REMOVAL upon counsel for Plaintiff by United States Mail, first class postage
prepaid, addressed to:

**Shannon Polvi, Esquire
Cromer, Babb, Porter & Hicks, LLC
Post Office Box 11675
Columbia, SC 29211**

and electronically to:

shannon@cbphlaw.com

s/Michael D. Malone
Michael D. Malone

August 27, 2021